

1
2
3
4
5
6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-740

11 **MARLENE ANN MAUGHAN**
12 **5522 Betty Jean Drive**
13 **Corpus Christi, Texas 78411-4707**

DEFAULT DECISION AND ORDER

14 **Registered Nurse License No. 631889**

[Gov. Code, §11520]

15 Respondent.

16 **FINDINGS OF FACT**

17 1. On or about June 12, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her official
18 capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of
19 Consumer Affairs, filed Accusation No. 2012-740 against Marlene Ann Maughan (Respondent)
20 before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

21 2. On or about February 3, 2004, the Board of Registered Nursing (Board) issued
22 Registered Nurse License No. 631889 to Respondent. The Registered Nurse License was in full
23 force and effect at all times relevant to the charges brought in Accusation No. 2012-740 and
24 expired on November 30, 2011, and has not been renewed. The expiration of Respondent's
25 license does not deprive the Board of its authority to institute or continue this disciplinary
26 proceeding pursuant to Business and Professions Code section 118(b) and Code sections 2764
27 and 2811(b).
28

1 3. On or about June 12, 2012, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 2012-740, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to California Code of Regulations, title 16,
5 section 1409.1, is required to be reported and maintained with the Board. Respondent's address
6 of record was and is: 5522 Betty Jean Drive, Corpus Christi, Texas 78411-4707.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. The aforementioned documents have not been returned by the U.S. Postal Service,
11 rather a completed return receipt shows Respondent received the documents on June 22, 2012.

12 6. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts
15 of the accusation not expressly admitted. Failure to file a notice of defense shall
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
17 may nevertheless grant a hearing.

18 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
19 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
20 740.

21 8. California Government Code section 11520 states, in pertinent part:

22 (a) If the respondent either fails to file a notice of defense or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions
24 or upon other evidence and affidavits may be used as evidence without any notice to
25 respondent.

26 9. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 2012-740, finds

1 that the charges and allegations in Accusation No. 2012-740, are separately and severally, found
2 to be true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$7,478.75 as of July 13, 2012.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Marlene Ann Maughan, has
8 subjected her Registered Nurse License No. 631889 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
11 Nurse License based upon the following violation alleged in the Accusation, which is supported
12 by the evidence contained in the Default Decision Evidence Packet in this case:

13 a. Violation of Code section 2761, subdivision (a) for unprofessional conduct in that
14 Respondent engaged in acts of theft, which are substantially related to the qualifications,
15 functions or duties of a registered nurse, as defined in title 16, California Code of Regulations,
16 section 1444 (c).

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

ORDER

IT IS SO ORDERED that Registered Nurse License No. 631889, heretofore issued to Respondent Marlene Ann Maughan, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on DECEMBER 7, 2012.

It is so ORDERED NOVEMBER 8, 2012

Raymond Mallet

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

Attachment: Exhibit A: Accusation

70596717.doc/DOJ Matter ID:SD2012703169

Exhibit A

Accusation Case No. 2012-740

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 MARICHELE S. TAHIMIC
Deputy Attorney General
4 State Bar No. 147392
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3154
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2012-740**

12 **MARLENE ANN MAUGHAN**
5522 Betty Jean Drive
13 Corpus Christi, Texas 78411-4707

ACCUSATION

14 **Registered Nurse License No. 631889**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about February 3, 2004, the Board of Registered Nursing issued Registered
23 Nurse License Number 631889 to Marlene Ann Maughan (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and expired
25 on November 30, 2011. It has not been renewed.

26 ///

27 ///

28 ///

1

2

3

5

6

7

8

Q

0

9

1

2

9

5

violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Theft)

9. Respondent is subject to disciplinary action under Code section 2761, subdivision (a) for unprofessional conduct in that Respondent engaged in acts of theft, which are substantially related to the qualifications, functions or duties of a registered nurse, as defined in title 16, California Code of Regulations, section 1444 (c). The circumstances are as follows:

10. On or about August 9, 2010 through September 13, 2010, Respondent was a traveling nurse assigned to the telemetry unit of Saint Mary's Regional Medical Center in Apple Valley, California.

11. During this period of time, there was an unusual increase in the number of reported thefts from patients and staff. Respondent was observed in patient and staff areas where items had been stolen. On September 10, 2010 through September 12, 2010, Respondent was observed by several employees on different occasions entering the rooms of patients in the West unit when she was assigned to the East unit. She entered the patient rooms for a brief time and then moved on to the next patient's room. All of the thefts occurred on days Respondent was working.

12. The following were reported stolen:

DATE	PATIENT	STAFF	ITEM STOLEN
8/17/2010	218		\$40 cash and \$30 Target gift card from wallet in patient's room
8/17/2010		J.F.	\$20 from backpack in nurse's lounge
8/19/2010		S.B.	\$140 from purse in nurse's lounge
8/20/2010		Breakroom	\$500
8/20/2010	226		\$100
8/21/2010	225		\$200 in purse in dresser in patient's room
Discovered missing 8/22/2010			
8/22/2010		W.D.	\$20
8/22/2010	229B		\$200
9/11/2010	233A		\$200
9/12/2010	246B		\$125-150

9/12/2010		S.B.	Backpack from under desk in nurse's cubicle in E-TELE (east Telemetry) containing credit card, driver's license, etc.
9/13/2010	219B		\$37
9/13/2010	219A		\$35

13. On the evening of September 12, 2010, patient #224 saw Respondent at her bedside table with her back toward her. Patient #224 kept her personal belongings in the bedside table.

14. On September 13, 2010, patient D.N. in room 219A woke at around 0200 hours and saw Respondent "rifling" through her purse. D.N.'s purse was in the closet. D.N. asked Respondent what she was doing. Respondent told D.N. that she was looking for diamonds and other jewelry. D.N. told her that she did not bring any jewelry. Respondent stated she was going to look anyway and continued to look in D.N.'s purse. Respondent stated she found medication and removed a bottle of Tylenol with codeine. Later, D.N. went through her wallet and found that \$35 was missing. D.N. was not a patient assigned to Respondent.

15. At 0900 hours on September 13, 2010, M.W., D.N.'s roommate, in 219A reported a theft. M.W. stated she was brought to the Telemetry unit at 0500 hours on September 13, 2010 from the ICU. While she was being transferred from ICU to Telemetry, M.W. had her property in a property bag next to her. The nurse stayed in the room with her to chat. M.W. dozed off and could not recall whether the nurse was still in her room when she fell asleep. At around 0700 hours, she looked into her property bag and found her wallet was missing \$37. Her purse was not in her property bag. She looked for her purse and found it in the bottom drawer of the night stand next to her bed. M.W. recalled that she had not taken her wallet out of her purse before or during the transfer. When M.W. was giving her statement to the Public Safety Officer, D.N. stated she saw a nurse going through her own purse and noted that it was the same nurse who brought M.W. in the room from ICU. The officer obtained still photographs of the surveillance video of the area and brought the photographs to D.N. D.N. identified Respondent as the person she saw looking through her purse.

16. When interviewed by the Board investigator, Respondent denied stealing from the patients or staff. However, on December 22, 2011, Respondent surrendered her Registered Nurse license to Board staff.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 631889, issued to Marlene Ann Maughan;
2. Ordering Marlene Ann Maughan to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED:

June 12, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2012703169
70564328.doc